

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

TYLER DIVISION

LAWRENCE E. DIXON, #1751862

§

VS.

§

CIVIL ACTION NO. 6:20cv260

WARDEN ENGLAND, ET AL.

§

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Lawrence Dixon, a prisoner currently confined at the Hodge Unit within the Texas Department of Criminal Justice (TDCJ) proceeding *pro se* and seeking to proceed *in forma pauperis*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge, the Honorable John D. Love, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On May 24, 2020, Judge Love issued a Report (Docket No. 6) recommending that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket No. 2) should be denied and Plaintiff's case should be dismissed with prejudice for purposes of proceeding *in forma pauperis* under 28 U.S.C. § 1915(g). Specifically, Judge Love found that Plaintiff accumulated at least three strikes before filing this 2020 lawsuit and failed to demonstrate imminent danger of serious physical injury. A copy of this Report was sent to Plaintiff at his address, with an acknowledgment card. The docket reflects that Plaintiff received a copy of the Report on June 4, 2020 (Docket No. 9). While Plaintiff subsequently filed a motion for a temporary restraining order and a letter to the Clerk, he has not filed objections or any pleading responding to Judge Love's Report.

Because objections to Judge Love's Report have not been filed, Plaintiff is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except

upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law"). Accordingly, it is


ORDERED that the Report of the United States Magistrate Judge (Docket No. 6) is **ADOPTED** as the opinion of the Court. Further, it is

ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis* (Docket No. 2) is **DENIED**. Moreover, it is

ORDERED that Plaintiff's civil rights lawsuit is **DISMISSED** with prejudice for purposes of proceeding *in forma pauperis* under 28 U.S.C. § 1915(g)—but without prejudice as to the refiling of his lawsuit without seeking *in forma pauperis* status. If Plaintiff pays the requisite \$400 filing fee within fifteen days of this Order, the lawsuit shall proceed as though the full filing fee had been paid from the outset. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED** as **MOOT**.

So **ORDERED** and **SIGNED** this **2nd** day of **September, 2020**.


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE